

# Judicial Council of California • Administrative Office of the Courts

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## INVITATION TO COMMENT SPR14-15

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Title	Action Requested
Probate Conservatorship and Guardianship: Accounting Schedules for Gains and Losses on Sales of Assets in Guardianships and Conservatorships	Review and submit comments by June 18, 2014
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Revise forms GC-400(B)/GC-405(B) and GC-400(D)/GC-405(D)	January 1, 2015
Proposed by	Contact
Probate and Mental Health Advisory Committee	Douglas C. Miller
Hon. Mitchell L. Beckloff, Chair	818-558-4178, <a href="mailto:douglas.c.miller@jud.ca.gov">douglas.c.miller@jud.ca.gov</a>

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### Executive Summary and Origin

Judicial Council forms of accounting schedules designed for use in guardianship and conservatorship accountings include schedules of gains and losses on sales of assets by guardians or conservators of estates. The gain and loss schedules, respectively forms GC-400(B)/GC-405(B) and GC-400(D)/GC-405(D), call for the total amounts of the gains and losses, but not the totals of the gross sales prices of the assets sold. The Probate and Mental Health Advisory Committee proposes to revise the gain and loss schedules to call for the totals of the sale prices of the assets sold, as an aid to court probate staffs and judicial officers in their review and reconciliation of the accountings.

### Background

In response to a directive contained in the Conservatorship and Guardianship Reform Act of 2006,<sup>1</sup> the Judicial Council adopted or approved, effective January 1, 2008, forms of schedules for use in standard and simplified guardianship and conservatorship accountings, and adopted rule 7.575 of the California Rules of Court to govern the mandatory or optional use of these forms.<sup>2</sup> Schedules to be used in standard accountings under section 2620 and rule 7.575(d) are

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<sup>1</sup> See Probate Code section 2620(a), as amended by Stats. 2006, ch. 493 (Assem. Bill 1363), § 24.

<sup>2</sup> See rule 7.575(a)–(c) for definitions of standard and simplified accountings and directions concerning which type must or may be prepared.

*The proposals have not been approved by the Judicial Council and are not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee. These proposals are circulated for comment purposes only.*

designated as GC-400; schedules for simplified accountings are designated as GC-405. Each schedule's form designator includes a suffix identifying its intended use.

Schedules designated as GC-400/GC-405 are optional forms, designed to be used in both standard and simplified accountings. These dual-use forms are optional for standard account filers, but mandatory for those filing simplified accounts (rule 7.575(e)).

The dual-use forms include the schedules for gains and losses on sale of estate assets, designated as form GC-400(B)/GC-405(B) (gains) and form GC-400(D)/GC-405(D) (losses). These forms show the gains or losses from the sales of assets, measured by subtracting the lesser from the greater of the gross sale price vs. the appraised value of each sold asset in the fiduciary's *Inventory and Appraisal* filed in the proceeding. The forms are single pages, with instructions to use as many copies of the form as necessary to show all gains or losses during the period of the account, with the last page of each schedule to be identified by checking a box at the bottom of the form, where the total of gains or losses from the sales listed on all pages of the schedule is to be shown.

### **The Proposal**

The Probate and Mental Health Advisory Committee, at the request of the managing probate staff attorney of a superior court's probate department, proposes to modify the schedules for gains and losses on sales of estate assets by adding a line for totals under the column for gross sale prices on each form and revising the instructions contained at the bottom of each form to reflect that change. The request was stated as follows:

I . . . request that the Judicial Council consider modifying the GC-400/405(B) and (D) forms for gains and losses on sale to add a "total" line for "sale price." Presently, there is only a space for a total for the "gain" or "loss" columns. Our court has had a longstanding procedure of calculating a cash reconciliation as a means to verify that the ending cash on hand is accurately stated. This calculation helps to locate errors in the accounting which may allow the account to balance, but may indicate that something was not properly reported in the schedules. For example, it will often show whether an accounting is properly reporting transactions concerning securities, such as purchases of securities, reinvested dividends, and the like.

Providing a space for a total for the sale price will assist our court staff in reviewing accountings filed using the Judicial Council forms.

In other communications from the court on this topic, the committee was advised that the court has created local accounting forms for use by self-represented fiduciaries in decedent estates based on the Judicial Council forms. This change should benefit these persons also.

This modest and easily understood change should help courts in their review and reconciliation of accountings in all matters in which the Judicial Council forms or local variants of them are currently used. To the extent that all court-appointed fiduciaries, including those who do not use the statewide forms, begin to provide the total sale prices in their accountings, the courts' review process should benefit even more.

### **Alternatives Considered**

The only alternative considered by the committee was to decline the request for this change on the ground that its cost would outweigh its benefit. However, the committee concluded that, over time, the reduced costs to all trial courts of reviewing and analyzing fiduciary accounts prepared on the forms should greatly exceed the expense of making and implementing this change.

### **Implementation Requirements, Costs, and Operational Impacts**

This proposal will not result in costs other than the minimal cost of distribution and implementation of the changed forms. Training costs will also be minimal, particularly if courts other than the one requesting this change follow the current practice of that court in their review of fiduciary accountings.

## **Request for Specific Comments**

In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?

The advisory committee also seeks comments from *courts* on the following cost and implementation matters:

- Would the proposal result in a net cost of implementation and training expenses over savings in court staff expense in their review and reconciliation of accountings filed by fiduciaries, or would such savings exceed the costs over time? If so please quantify.
- What would the implementation requirements be for courts? For example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems.
- Would 2 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

### **Attachments**

1. Form GC-400(B)/GC-405(B), at page 4
2. Form GC-400(D)/GC-405(D), at page 5

<input type="checkbox"/> CONSERVATORSHIP <input type="checkbox"/> GUARDIANSHIP OF (Name):	CASE NUMBER:
<input type="checkbox"/> Conservatee <input type="checkbox"/> Minor	

**Schedule B, Gains on Sales—Standard and Simplified Accounts**

**Gains on sales during period of account**

Date <i>(mm/dd/yyyy)</i>	Property Sold	Carry Value *	Sale Price	Gain
		\$	\$	\$
<input type="checkbox"/> <b>Totals, Sale Prices and Gains on Sales:</b>			\$	\$

\* See form GC-400(PH)(2)/GC-405(PH)(2) for information about Carry Value.

*(List all property sold during the account period that resulted in gains (gross sale price higher than carry value). Include each property's Inventory and Appraisal item number and the date the Inventory and Appraisal containing the property was filed. Add pages as required. Check the box at the bottom of the last page of this schedule and total the sale prices and the gains. Carry the total of gains over to line 4 of the Summary of Account (form GC-400(SUM)/GC-405(SUM)). The page total to the right is the number of pages in Schedule B.)*

<input type="checkbox"/> CONSERVATORSHIP <input type="checkbox"/> GUARDIANSHIP OF (Name):	CASE NUMBER:
<input type="checkbox"/> Conservatee <input type="checkbox"/> Minor	

**Schedule D, Losses on Sales—Standard and Simplified Accounts**

**Losses on sales during period of account**

Date <i>(mm/dd/yyyy)</i>	Property Sold	Carry Value *	Sale Price	Loss
		\$	\$	\$
<input type="checkbox"/> <b>Totals, Sale Prices and Losses on Sales:</b>			\$	\$

**\* See form GC-400(PH)(2)/GC-405(PH)(2) \* for information about Carry Value.**  
*(List all property sold during the account period that resulted in losses (carry value higher than gross sale price). Include each property's inventory item number and the date the inventory containing the property was filed. Add pages as required. Check the box at the bottom of the last page of this schedule and total the sale prices and the losses. Carry the total of losses over to line 9 of the Summary of Account (form GC-400(SUM)/GC-405(SUM)). The page total to the right is the number of pages in Schedule D.)*